

# Notice of Allowability

Application No.

10/628,537

Examiner

Stanley J. Pruchnic, Jr.

Applicant(s)

GROESCHNER, DONALD L.

Art Unit

2859

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5 October 2004 (AMENDMENT)
2. ☒ The allowed claim(s) is/are 1-20 and 26-31.
3. ☒ The drawings filed on 28 July 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments, see REMARKS, filed 5 October 2004 (received 7 October 2004, with respect to all pending claims (Claims 1-20 and 26-31) have been fully considered and are persuasive in view of the amendment to cancel all non-allowed claims.

### *Allowable Subject Matter*

2. Claims 1-20 and 26-31 are allowed.

**Claims 1 and 26** are allowed (as previously stated in the Office Action mailed 6/9/04 on Page 8) because the prior art of record fails to teach or fairly suggest a holder for materials for use in a measuring instrument or a method for fabricating a holder for materials for use in a measuring instrument including an intermediate housing member comprising: an upper wall extending upwardly from an upper surface of a generally horizontal member, the upper wall defining a first recess adjacent the upper surface having a first diameter and a second recess adjacent the first recess having a second diameter, the second diameter being greater than the first diameter; and an upper housing member comprising a wall extending upwardly from an upper surface of a generally horizontal member; the upper housing member being seated within the second recess of the intermediate housing member; as defined in the claims, in combination with the other limitations, each arranged and functioning as recited in Claims 1 and 26. **Claims 2-12 and 27-30** are allowed by virtue of their dependency upon the respective of claims 1 and 26.

**Regarding Claim 31:** **Claim 31** is allowed for the reasons previously stated in Pages 8-9 of the Office Action mailed 6/9/04 as regarding Claim 21 (*sic*, --22--). **The prior art** teaches away from electron-beam welded together the parts as claimed by Applicant for at least two reasons: (1) NOREM discloses that these parts are held together by "sandwiching", only welding the outer portions. Even if one considered welding the parts as claimed by Applicant, each of the parts to be welded must be in intimate contact, but each of these parts, as disclosed by NOREM, are horizontally

oriented planar discs (Fig. 2) separated by layers of alumina, making it impossible to weld these parts without further structural modifications. (2) BULLINGER recognizes the criticality of the dimensions of these parts and recognizes that the disc parts change their dimensions (e.g., shrink) when they are electron beam welded together. The prior art of record does not disclose or fairly suggest the limitations of Claim 31 as Claimed by Applicant: NOREM discloses the lower housing member is electron-beam welded (Col. 2, Lines 36-42) to a post assembly (16, 56), but NOREM does not disclose the holder wherein the intermediate housing member and the upper housing member are electron-beam welded together and wherein the intermediate housing member and the lower housing member are electron-beam welded together.

**Regarding Claims 13-20: Claim 13** is allowed for the reasons previously stated in the Office Action mailed 09 September 2004: Applicant's arguments, see Response, filed 6 July 2004, with respect to Claim 13 have been fully considered and are persuasive. Moreover, NOREM discloses only one wall 60 (inadvertently labeled "62" in a previous Office Action, as correctly pointed out by Applicant). As NOREM's disclosure was interpreted in that Action, the wall 60 was considered part of an upper housing member as well as a lower housing member. Thus interpreted, the upper housing member cannot fairly be considered as "being seated within the upper recess of the intermediate housing member" as claimed by Applicant. Similar argument applies for the lower housing member. The "intermediate housing member" of NOREM (comprising member 92) does not provide any structure within which either the upper or lower housing members can be "seated within". **Claims 14-20** are allowed by virtue of their dependency upon claim 13.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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**Conclusion**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stanley J. Pruchnic, Jr., whose telephone number is **(571) 272-2248**. The examiner can normally be reached on weekdays (Monday through Friday) from 7:30 AM to 4:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. F. Gutierrez can be reached at **(571) 272-2245**.

The **Official FAX** number for Technology Center 2800 is **(703) 872-9306** for **all official communications**.

Any inquiry of a general nature or relating to the status of this application or proceeding may be directed to the official USPTO website at **<http://www.uspto.gov/>** or you may call the **USPTO Call Center** at **800-786-9199** or 703-308-4357. The Technology Center 2800 Customer Service FAX phone number is (703) 872-9317.

The cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site ([www.uspto.gov](http://www.uspto.gov/)), from the Office of Public Records and from commercial sources.

Private PAIR provides external customers Internet-based access to patent application status and history information as well as the ability to view the scanned images of each customer's own application file folder(s).

For inquiries relating to Patent e-business products and service applications, you may call the **Patent Electronic Business Center (EBC)** at **703-305-3028** or toll free at **866-217-9197** between the hours of **6 a.m. and midnight Monday through Friday EST**, or by e-mail at: **[ebc@uspto.gov](mailto:ebc@uspto.gov)**. Additional information is available on the Patent EBC Web site at: **<http://www.uspto.gov/ebc/index.html>**.



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10/14/04